

# Proposed Amendments to Civil Service Rules: Rule 2-8, Rule 6-5, and Rule 6-8

Revision A, June 24, 2004

Added text is underlined.

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## Rule 2-8 Ethical Standards and Conduct

### 2-8.1 Ethical Conduct Required

Employment in the state classified service demands a high degree of loyalty and imposes high ethical standards on employees to ensure the integrity of state government and maintain effective services. All employees must meet these ethical standards and all appointing authorities are obligated to enforce these ethical standards.

### 2-8.2 Prohibitions

**(a) All employees.** A classified employee shall not do any of the following:

**(1)** Divulge or release, for financial gain for the employee or a member of the employee's immediate family, any confidential information that is not by law, rule, regulation, or court order available to members of the general public. However, this subsection does not prohibit an employee from disclosing to a public body a violation or suspected violation as authorized in rule 2-10 [Whistleblower Protection] unless otherwise prohibited by statute, court order, or professional ethics.

**(2)** Engage in or agree to engage in, for financial gain for the employee or a member of the employee's immediate family, any business transaction or private arrangement that accrues from or is based on the employee's official position or on confidential information gained by reason of the employee's position.

**(3)** Solicit, accept, or agree to accept anything of value (1) from any designated representative [as defined in rule 9-1] or (2) under any circumstances that could reasonably be expected to influence the manner in which the employee performs work or makes decisions.

- 1       **(4)** Make available any consideration, treatment, advantage, or favor beyond that which  
2       is generally granted or made available to others under similar circumstances.
- 3       **(5)** Represent or act as an agent for any private interests, whether for compensation or  
4       otherwise, in any transaction in which the state has a direct and substantial interest  
5       and which could reasonably be expected to result in a conflict between the  
6       employee's private interests and official state responsibilities.
- 7       **(6)** Exercise any decision-making authority of the state regarding any state regulation,  
8       enforcement, auditing, licensing, or purchasing with respect to any business or entity  
9       in which the employee or a member of the employee's immediate family has any  
10      financial interest.
- 11      **(7)** Engage in supplemental employment that conflicts with the satisfactory or impartial  
12      performance of the employee's state duties.
- 13      **(8)** Engage in supplemental employment without the express written consent of the  
14      employee's appointing authority.
- 15      **(9)** Engage in any supplemental employment during actual-duty time.
- 16      **(10)** Request or use sick leave to engage in supplemental employment.
- 17      **(11)** Use any state funds, property, or equipment in or for the benefit of any  
18      supplemental employment.
- 19      **(12)** Fail to timely, fully, and accurately report to the employee's appointing authority  
20      any of the following:

  - 21          **(A)** Any interest of the employee or the employee's immediate family in any  
22          business or entity with which the employee has direct contact while performing  
23          official duties as a classified employee.
  - 24          **(B)** Any supplemental employment or change in approved supplemental  
25          employment required by this rule, applicable regulations, or departmental work  
26          rules.
- 27      **(b) Attorneys.** In addition to any other prohibition, an employee occupying a classified  
28      position that requires the employee to be a licensed attorney in the State of Michigan  
29      shall not do any of the following, whether for compensation or otherwise.

  - 30          **(1)** Represent any person or entity with an interest adverse to the State of Michigan or  
31          any of its agencies or instrumentalities (1) in any criminal, civil, regulatory, or  
32          administrative matter or (2) before any court or administrative agency.
  - 33          **(2)** Represent any private interest before any state administrative agency.
  - 34          **(3)** Represent another state employee in any matter, including a personnel matter,  
35          against the State of Michigan or any of its agencies or instrumentalities.

**(c) Excluded employees.** In addition to any other prohibition, the following employees may not represent another employee in any matter or proceeding related to employment, including, but not limited to, investigations, disciplinary conferences, grievances, civil service technical matters, or civil service proceedings:

(1) An appointing authority who is a classified employee.

(2) An excluded employee occupying a position in human resources under the direction of an appointing authority.

2-8.3 Disclosure *[No change]*

2-8.4 Compliance *[No change]*

2-8.5 Discipline *[No change]*

2-8.6 Reporting Alleged Violations *[No change]*

2-8.7 Appointing Authority Guidance and Exemptions *[No change]*

## Rule 6-5 Rights of Employees

### 6-5.1 Participation by Employees

Employees may organize, form, assist, join, or refrain from joining labor organizations. Eligible employees may also engage in concerted activities for collective bargaining with the employer.

### 6-5.2 Resignation *[No change]*

### 6-5.3 Exclusively Represented Employees *[No change]*

### 6-5.4 Nonexclusively Represented Employees

A nonexclusively represented employee who is scheduled for a disciplinary conference or who appears as a party in a civil service proceeding may represent himself or herself or may choose to be represented by one of the following:

(a) An employee or agent of a limited-recognition organization.

(b) An attorney, except as limited in rule 2-8.2(b) [Ethical Standards and Conduct: Prohibitions].

(c) Another nonexclusively-represented classified employee, except as limited in rule 2-8.2(c) [Ethical Standards and Conduct: Prohibitions].

(1) If the representative is an employee of the same principal department or autonomous entity (and agency of convenience, if any) as the charged employee, the appointing authority shall release the representative from regularly scheduled work without loss of pay or leave credits to attend the disciplinary conference or civil service proceeding.

(2) If the representative is an employee of a different principal department, autonomous entity, or agency of convenience than the charged employee, the representative may be absent from the workplace to attend the disciplinary conference or the civil service proceeding only if the representative's appointing authority has approved annual or personal leave.

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## Rule 6-8 Recognition Rights for Labor Organizations

### 6-8.1 Rights of Exclusive Representatives

An exclusive representative (1) has the duty of fair representation of all employees in the unit, (2) may engage in collective bargaining with the employer, and (3), when mutual agreement is reached, may submit to the civil service commission for approval a written collective bargaining agreement regarding proper subjects of bargaining.

### 6-8.2 Limitation on Representation

A labor organization certified as an exclusive representative in a unit is prohibited from representing (1) any employee in an eligible position prior to being certified as the exclusive representative in the employee's unit and (2) any employee occupying an excluded position.

### 6-8.3 Limited-Recognition Organizations

Employees in excluded positions are not eligible for exclusive recognition but may join and be represented by limited-recognition organizations, [unless otherwise prohibited in this rule](#). Employees in eligible positions in units that have not yet elected an exclusive representative may join and be represented by limited-recognition organizations. However, a limited-recognition organization shall not represent nor seek to represent an employee in an eligible position after an exclusive representative has been certified in the employee's unit.

**(a) Limited-recognition status and payroll deduction of dues.** The state personnel director shall recognize as a limited-recognition organization an organization that registers with the director and provides (1) a copy of its constitution, bylaws, or other governing documents; (2) the names and addresses of its officers; (3) proof of registration as a nonprofit corporation in the state of Michigan; and (4) proof of membership of 50 or more excluded employees. Proof of membership must be in the form of signed membership application forms. Upon submission to the office of the state employer of 50 or more appropriate dues deduction cards, such an organization has the privilege of payroll deduction of dues for members who are excluded. An employee cannot have the privilege of payroll deduction of dues to more than one organization.

**(b) Limited recognition rights.** An organization granted limited recognition under this rule also has the following rights:

(1) The right to express the interests of its members.

(2) The right to represent its members in civil service grievance hearings and technical appeals, when requested by the member.

1       **(3)** The right to be heard by the employer, the employment relations board, and the civil  
2       service commission.

3       **(4)** The right to union leave for union activities as may be provided in the regulations.

4       **(c) Limitations for certain excluded employees.**

5       **(1) Limited membership permitted.** The following employees may join a limited-  
6       recognition organization but are prohibited from serving in any official capacity,  
7       including, but not limited to, serving as an officer, agent, or representative of the  
8       limited recognition organization:

9       **(a)** An appointing authority who is a classified employee.

10       **(b)** An excluded employee occupying a position in human resources under the  
11       direction of an appointing authority.

12       **(2) Membership prohibited.** Notwithstanding subsection (c)(1), the following  
13       employees are prohibited from joining or being represented by a limited-recognition  
14       organization:

15       **(a)** An employee of the department of civil service.

16       **(b)** An employee of the office of the state employer.  
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## Selected Civil Service Rule Definitions (For Reference Only)

### Rule 9-1 Definitions

Unless the context clearly provides otherwise, the following terms in the civil service rules and regulations are defined as follows:

#### Appointing Authority

**Appointing authority** means each of the following:

- (a) A single executive heading a principal department.
- (b) A chief executive officer of a principal department headed by a board or commission.
- (c) A person designated by either of the preceding as responsible for administering the personnel functions of the department, board, commission, or agency of convenience.

#### Confidential Position

**Confidential position** means each of the following positions in the classified service:

- (a) A position assigned responsibility for directly assisting a person occupying a managerial position.
- (b) A position assigned responsibility for investigating other employees.
- (c) A position that is responsible for providing personal protection services to state elected officials.

#### Excluded Position

**Excluded position** means each of the following positions in the classified service:

- (a) A confidential position.
- (b) A managerial position.
- (c) A supervisory position.
- (d) A position in the department of civil service.
- (e) A position in the office of the state employer.

#### Limited-recognition Organization

**Limited-recognition organization** means a labor organization recognized by the state personnel director to represent employees in nonexclusively represented positions.

### Managerial Position

***Managerial position*** means a position in the classified service that is assigned responsibility for one or more of the following:

- (a) Establishing policy or directing the work of a principal department, an autonomous entity, or one of their subdivisions.
- (b) Administering the policies and programs of a principal department, an autonomous entity, or one of their subdivisions.
- (c) Managing, administering, or controlling a local branch office of a principal department or autonomous entity.
- (d) Representing or advising the state in legal matters.
- (e) Adjudicating disputes involving classified employees or mediating labor-management relations in the public or private sector.
- (f) Assisting in the preparation for, or conduct of, primary or secondary negotiations on behalf of the employer.
- (g) Administering personnel administration, labor relations, or the preparation and administration of a budget at the central level of state government or for a principal department or major subdivision.

### Nonexclusively Represented Position

***Nonexclusively represented position*** means (1) an excluded position or (2) an eligible position in a unit that has not elected an exclusive representative.

### Supervisory Position

***Supervisory position*** means a position in the classified service that meets one or more of the following criteria:

- (a) A position assigned responsibility, in the interest of the employer, to hire, assign, discipline, lay off, recall, promote, reclassify, evaluate, or set the pay for another employee.
  - (b) A position assigned responsibility to direct an employee or to adjust employee grievances.
  - (c) A position assigned responsibility effectively to recommend any action referenced in subsection (a) or (b) if the exercise of such authority requires the use of independent judgment and is not merely a routine or clerical act.
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